



COUNTY OF LOS ANGELES

REGISTRAR-RECORDER/COUNTY CLERK

12400 IMPERIAL HWY. – P.O. BOX 1024, NORWALK, CALIFORNIA 90651-1024/(562) 462-2716

CONNY B. McCORMACK
REGISTRAR-RECORDER/COUNTY CLERK

April 23, 2002

TO: EACH SUPERVISOR

FROM: Conny B. McCormack, Registrar-Recorder/County Clerk

**POSSIBLE RECALL ELECTION IN THE CITY OF SOUTH GATE AND
THE ROLE OF THE BOARD OF SUPERVISORS AND RR/CC**

It is likely that the State legislature will request your approval for temporarily transferring election administration authority from the City of South Gate to the Registrar-Recorder/County Clerk (RR/CC) for the purpose of conducting potential recall elections in the city. This unprecedented legislation is being drafted at the request of the Secretary of State in response to concerns regarding election fraud if the City were to conduct these elections. Legislation is required because there is no provision in State law for overriding city authority over elections.

All but a handful of the cities in Los Angeles County conduct their own municipal elections. A few City Councils have chosen to consolidate their election dates with regularly scheduled County elections (such as Alhambra, Downey and Santa Monica for the upcoming November 5, 2002 General Election). In those instances, in accordance with State election law,¹ the City Council requests Board approval for election services. The same law provides that the City shall pay for those election services.² All requests for consolidation are submitted to you for approval, and the RR/CC has asked the Secretary of State to include this decision-making authority in the legislation currently being drafted, so that it is consistent with existing State law. The RR/CC does not make decisions about which jurisdictions consolidate; this authority to accept or reject such requests has always rested with the Board.

¹ Elections Code Section 10002: "The governing body of any city or district may by resolution request the board of supervisors of the county to permit the county elections official to render specified election services to the city or district relating to the conduct of an election. Subject to the approval of the board of supervisors, these services shall be performed by the county elections official."

² EC § 10002: "Unless other arrangements satisfactory to the county have been made, the city or district shall reimburse the county in full for the services performed upon presentation of a bill to the city or district."

As is evident from a barrage of recent media coverage, there are serious issues regarding potential recall elections of four Councilmembers and the City Clerk in South Gate. The California Secretary of State has been working for some months to move the responsibility for conducting these elections to the RR/CC because of the fraud concerns cited above and documented in a number of the attachments to this memo.

The RR/CC takes no position on the issue of whether the City should be forced to cede election administration authority to the County. Due to Superior Court involvement in these matters, the current status of all recall petitions is "on hold". Court action in early April essentially delays any action on these petitions to mid-May at the earliest.

If election responsibility is transferred to the RR/CC, either through judicial or legislative action, our Department has the capability to provide services to the voters of South Gate. Our chief concern is the potential financial burden of providing services against the will of the elected officials of the City. It is important that a clear mechanism be in place for compensating the County for any election work performed. A related financial concern is that the tensions and accusations in South Gate (amply demonstrated in attached media coverage) dictate that City elections will require extraordinary measures on the part of RR/CC to insure not only the integrity of the process but also the physical safety of staff members and pollworkers.

Following is a brief summary of recent events regarding the City of South Gate. Items for which documents are attached are starred (*).

Background/Event Chronology

* **12/3/01** – Elected City Clerk Carmen Avalos wrote to RR/CC requesting our assistance in overseeing elections in South Gate or conducting them. Ms. Avalos also wrote to the Secretary of State, District Attorney, State Senator Martha Escutia and Assembly Member Marco Firebaugh.

* **12/19/01** – RR/CC responded to Ms. Avalos explaining that the RR/CC does not normally conduct municipal elections unless the City Council requests consolidation with a regularly-scheduled County election.

January 2002 – South Gate City Council barred City Clerk Carmen Avalos from performing election administration duties and appointed attorney Julia Sylva to post of "Elections Official" for the City.

* **1/17/02** – The Secretary of State held a press conference in South Gate, stating that he will monitor the electoral process in the City and will force the City to hand over election duties to RR/CC if problems are not corrected.

* **1/17/02** – Secretary of State Bill Jones wrote to Julia Sylva directing her to report weekly to his office detailing her processing of recall petitions.

* **1/23/02** – LA County District Attorney's Office conducted a raid of homes of South Gate Treasurer Albert Robles and Councilmember Maria Benevides.

- * **2/11/02** – South Gate City Council considered and rejected a motion to reinstate the elected City Clerk to act as the City's election official.
- 2/20/02** – RR/CC received three Declarations of Intent to Recall petitions for processing from Alli Hunter, City of South Gate.
- * **2/21/02** – RR/CC wrote to South Gate Elections Consultant Julia Sylva clarifying the Department's position with respect to acting as the elections administrator for City special elections and outlining the legal and financial conditions under which the RR/CC would conduct such elections.
- * **2/28/02** – Secretary of State issued an order to the City of South Gate to either restore election duties to elected City Clerk or to contract with RR/CC for election administration.
- 3/18/02** – SOS filed declaration with Los Angeles Superior Court (re: Ruiz v. Avalos et al) reiterating their position that RR/CC should conduct elections for the City.
- 3/18/02** – Superior Court ordered City of South Gate to bring all petitions seeking a recall election to the RR/CC for safekeeping during processing.
- 3/21/02** – Recall petitions received by RR/CC for Raul Moriel, Mayor, Albert Robles, City Treasurer and Maria Benavides, Council Member. Petitions were placed in a locked room. No petition verification process has begun.
- 3/25/02** – City Council rejected SOS demand for RR/CC to conduct City elections.
- 3/25/02** – Recall petition received by RR/CC for Xochilt Ruvalcaba, Vice Mayor.
- 3/29/02** – Court of Appeals agreed to review South Gate election litigation.
- * **4/5/02** – South Gate Treasurer Albert Robles was arrested for allegedly "making murderous threats" against Assemblyman Marco Firebaugh, State Senator Martha Escutia, and a South Gate police officer.
- * **4/5/02** – SOS repeated order for South Gate to transfer election authority to County.
- * **4/11/02** – Robles was released on \$500,000 bond. The FBI revealed that it has opened a political corruption investigation in South Gate.
- 4/18/02** – SOS Chief Counsel reported to RR/CC that SOS is working with several state legislators to draft legislation to require South Gate to have County's RR/CC conduct South Gate recall elections that may be held in 2002/03.

Financial Considerations

As mentioned above, in a "normal" or routine situation, a City Council that wishes to contract with the County to provide election services submits a request in the form of a resolution to the Board of Supervisors. Contained in these routine resolutions is a commitment on the part of the City Council to pay for such services, whether support for a City-conducted election or the consolidation of a City election with a regularly scheduled County election. The Board then has the legal right to accept or decline the City's request.

In a February 21, 2002 letter to South Gate Elections Consultant Julia Sylva, the RR/CC outlined the legal and financial conditions³ under which the RR/CC would conduct any special recall elections in the City. To date, this letter has received neither an acknowledgement nor a response.

The City of South Gate presents a unique challenge because a majority of its current elected Councilmembers has clearly and repeatedly indicated that they do not wish to cede election authority to the County. If the SOS is successful in its drive to force the issue, it is likely that the same City Council majority will balk at paying for services they did not wish to receive in the first place. For this reason, it is our understanding that the legislation currently being crafted in the State legislature will include some type of provision enabling the County to apply for reimbursement of costs incurred in the conduct of these legislatively mandated elections. No specific language has yet been drafted and the SOS is still in the process of internal discussion on this issue.

Current Status

The exact form of the proposed legislation is unknown. It is unclear in what role the legislation would cast the Board of Supervisors, nor do we know at this time how the issue of compensation for election services will be addressed.

We will keep you informed as events unfold.

c: County Counsel
CAO

³ Financial conditions included the RR/CC receiving partial payment in advance for the estimated cost of the special elections and the inclusion of a provision in either a City resolution or SOS legal order a provision assuring that the RR/CC costs for conducting these special elections will be fully reimbursed to the County.